

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL INSTRUMENTS ANTITRUST LITIGATION	MDL No. 2262
THIS DOCUMENT RELATES TO:	Master File No. 1:11-md-2262-NRB ECF Case
THE BERKSHIRE BANK and GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO Individually and On Behalf of All Others Similarly Situated, Plaintiffs, v. BANK OF AMERICA CORPORATION, et al., Defendants.	Civil Action No. 12-CV-5723-NRB

**LENDER PLAINTIFFS' SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF SETTLEMENTS WITH CREDIT SUISSE
GROUP AG AND THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., N/K/A MUFG
BANK, LTD. AND MOTION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF
LITIGATION EXPENSES**

On June 8, 2022, Lender Plaintiffs filed their Motion for Final Approval of Settlements with Credit Suisse Group AG (“Credit Suisse”) and The Bank of Tokyo-Mitsubishi UFJ, Ltd., N/K/A MUFG Bank, Ltd. (“MUFG”) and memorandum in support thereof (ECF Nos. 3400 and 3401) (“Final Approval Motion”) and their Motion for Attorneys’ Fees and Reimbursement of Litigation Expenses and memorandum in support thereof (ECF Nos. 3405 and 3406) (“Fees and Expenses Motion”).¹ On June 29, 2022 Lender Plaintiffs filed their reply papers in further support of their Final Approval Motion and Fees and Expenses Motion. ECF Nos. 3420.

As discussed in Plaintiffs’ reply brief, the claims administrator received 10 requests for exclusion that were post marked on or before the opt-out deadline of June 22, 2022.

On July 1, 2022, the claims administrator received a request for exclusion from counsel for Federal National Mortgage Association (“Fannie Mae”). Declaration of Jennifer M. Keough Regarding Additional Request for Exclusion, ¶2, Ex. A. As stated in the request, Fannie Mae filed its own, direct lawsuit in 2013 seeking to recover losses it sustained on over-the-counter derivatives and other transactions due to the manipulation of the U.S LIBOR. *Id.* Fannie Mae also timely requested exclusion from certain of Lender Plaintiffs’ prior settlements with Citibank, N.A., Citigroup Inc., HSBC Bank PLC, Barclays Bank PLC and Deutsche Bank. *See* ECF No. 2777, 3726.

Subject to the Court’s approval, Plaintiffs’ counsel recommends accepting Fannie Mae’s Request for Exclusion. *See* Fed. R. Civ. P. 23(e) (stating court approval required for any settlement that would bind class members); *In re Del-Val Fin. Corp. Sec. Litig.*, 154 F.R.D. 95,

¹ Unless otherwise indicated, all capitalized terms used herein have the meanings set forth and defined in the Settlement Agreements with Credit Suisse and MUFG (the “Settlement Agreements”). True and correct copies of the Settlement Agreements can be found in the Lender Plaintiff’s Motions for Preliminary Approval of the Settlements. ECF Nos. 3336-4, 3336-5.

96 (S.D.N.Y. 1994) (stating whether to grant or deny untimely out-opt request is within court's discretion).

Plaintiffs' counsel promptly notified counsel for Credit Suisse and MUFG of Fannie Mae's request for exclusion, Plaintiffs' counsel's intent to present the request for exclusion to the Court for consideration and asked whether Settling Defendants objected to the Court accepting the request for exclusion. As of the time of this filing, Settling Defendants' counsel have not informed Plaintiffs' counsel if they object.

In the event that the Court accepts Fannie Mae's request for exclusion, submitted herewith is a revised proposed order that adds Fannie Mae to the list of entities excluded from the Settlement Class.

Dated: July 11, 2022
New York, New York

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CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Jeremy A. Lieberman
Jeremy A. Lieberman